

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8909 of 1998

and

SPECIAL CIVIL APPLICATION No 8912 of 1998

and

SPECIAL CIVIL APPLICATION No 8928 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be
allowed to see the Order ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the
fair copy of the Order ?

4. Whether this case involves a substantial
question of law as to the interpretation of
the Constitution of India, 1950 of any Order
made thereunder?

5. Whether it is to be circulated to the Civil
Judge?

MARUTIBHAI VISHNUBHAI JADAV

Versus

STATE OF GUJARAT

Appearance:

MRS DT SHAH for Petitioner

MR VB GHARANIA, AGP for the respondents

CORAM : MR.JUSTICE S.K.KESHOTE

ORAL JUDGMENT

#. Rule. Shri V.B.Gharania waives service of rule on behalf of the respondents. Looking to the nature of the cases and the controversy raised therein and the fact that the matters are covered by the decision given by this court in an identical matter and on the request of the counsel for the parties, the same are taken up for final hearing today and are being decided by this common order.

#. Heard learned counsel for the parties.

#. It is not in dispute that the petitioners are holding the post of Operation Theater Assistant. They have been given the pay scale of 775-1025 though as per the revised pay scale rules i.e. Gujarat Civil Services (Revision of Pay) Rules, 1987, the pay scale of the Operation Theatre Assistant is laid down 1150-1500. The learned counsel for the petitioner contends that this matter is squarely covered by the decision of this court given in the special civil application No.2325/94 decided on 30/6/94. A copy of the decision of this court in the aforesaid special civil application is on the record of this petition as Annexure-A at page No.12. Earlier, similar matters have come up before this court and same were decided accordingly relying on this very judgment in favour of the petitioners in those matters. In the reply the defence taken by the respondents is that the pay scale of Rs.1150-1500 has been prescribed for the Operation Theatre Assistant working in the hospitals, which are under the control of Medical wing of the Commissionerate of Health & Medical Education and the petitioners are not entitled for this pay scale.

#. I fail to see any justification in this defence. Only on the basis of this defence it cannot be taken that these matters are not covered by the decision of this court given in special civil application No.2325/95 decided on 30/6/94.

#. In the result, all these special civil applications are allowed and it is hereby declared that the petitioners are entitled for fixation of their pay in the pay scale Rs.1150-1500 w.e.f. 1/1/86 and for further revision of their pay in the pay scale as revised as per the recommendation of 5th Pay Commission from the date of from which same was given effect for the government employees in this state. However, the petitioners shall

be entitled for actual benefit of the revision in both pay scales from the date of the filing of these special civil application. However, their pay in the revised pay scales be notionally arrived at on the date of the filing of this special civil application. These special civil applications have been filed by the petitioners on the dates as under :

Special Civil Application No.8909/98 12/10/98

Special Civil Application No.8912/98 12/10/98

Special Civil Application No.8928/98 12/10/98

Rule stands disposed of in the aforesaid terms.
No order as to costs.

(S.K.Keshote, J.)

*Pvv